



OFFICE OF RACIAL EQUITY AND SOCIAL JUSTICE

Marc Elrich
County Executive

Tiffany Ward
Director and Chief Equity Officer

MEMORANDUM

October 13, 2023

To: Jennifer Bryant, Director
Office of Management and Budget

From: Tiffany Ward, Director
Office of Racial Equity and Social Justice 

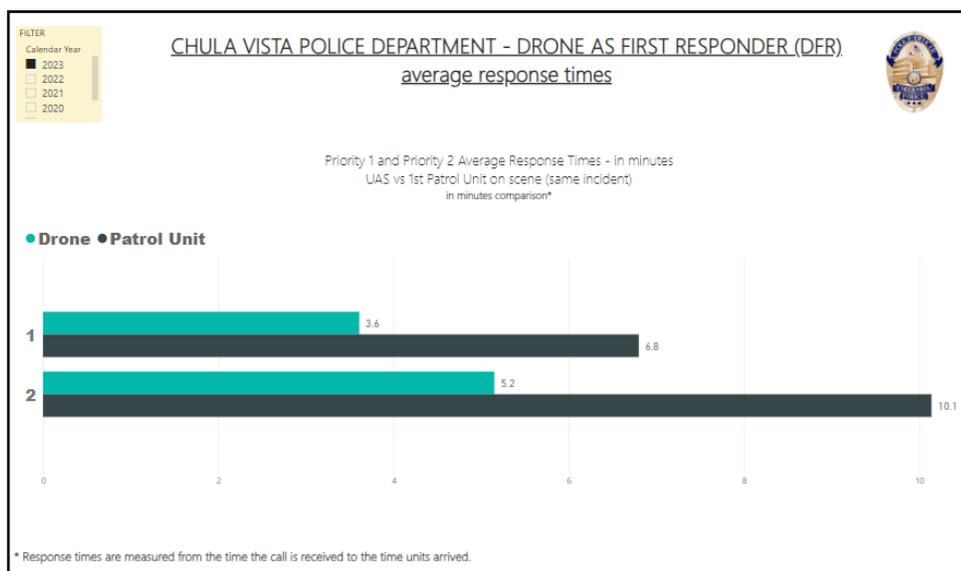
Re: Racial Equity Impact Assessment (REIA) Supplemental Appropriation (SA) #24-21
Drone as First Responder Pilot Program (\$350,000)

- I. **FINDING:** The Office of Racial Equity and Social Justice (ORESJ) finds that *Supplemental Appropriation #24-21 Drone as First Responder Pilot Program* is unlikely to advance racial equity and social justice in Montgomery County. The primary concern is the selection of deployment locations, which overwhelmingly target communities of color, raising concerns about the potential negative impact on already over-policed and marginalized communities. Furthermore, the program could potentially harm communities if policies related to drone usage (data reporting and retention, and accountability) are not put into place to establish guardrails around police usage of such technology.
- II. **BACKGROUND:** The purpose of this SA#24-21-Drone as First Responder (DFR) Pilot Program is to fund program infrastructure, equipment, and vendor-supplied contract staff to start an unmanned aircraft system (UAS) or drone program to respond to 911 police emergency calls. According to the Montgomery County Police Department (MCPD), the UAS will respond to police calls for service with the goal of arriving at the scene prior to, or in conjunction with, dispatched police officers. The UAS can evaluate the scene while, providing information to responding officers and also, allow for de-escalation, improved decision-making, and increased efficiency of services. Two sites have been proposed for deploying the drone program – Silver Spring and Wheaton. Of note, the proposed MCPD DFR program would not be used as a substitute for dispatching patrol officers but may allow for officers to be placed back in service or diverted to other pending calls.

Additionally, it is stated that there is no intention for the program to be used for routine surveillance of these communities.

Currently, at least 1,500 public safety agencies across the country are using drones in some capacity¹, with varying program uses. In 2018, the Chula Vista Police Department (CVPD) in California initiated the first DFR program in the United States. Before launching the program, CVPD established a UAS Committee to study the use of drone technology in public safety operations. Following numerous meetings on best practices, policies, and procedures, public forums, public comment, and media discussions, CVPD activated a UAS program in 2017 to support tactical operations. The UAS program began responding to 911 calls in late 2018, and its service area coverage has expanded over the years as more launch sites have been added and drones purchased. Additionally, CVPD was granted Federal Aviation Administration (FAA) approval to fly UAS Beyond the Visual Line of Sight (BVLOS). While only a limited number of public safety agencies have this approval, the FAA is expected to relax requirements, granting more organizations this authority².

Transparency has been a focus of the CVPD program. CVPD's UAS policy is published on its website. The Chula Vista DFR program also publicly shares program data through the Drone-Related Activity Dashboard. The dashboard is manually updated regularly. As indicated below, CVPD has responded to over 17,000 calls through the DFR program. The following two images provide CVPD DFR dashboard data related to response activities and times.



Source: <https://www.chulavistaca.gov/departments/police-department/programs/uas-drone-program>

¹ Congressional Research Service. August 2023. Law Enforcement and Technology: Use of Unmanned Aircraft Systems. Available at: <https://sgp.fas.org/crs/misc/R47660.pdf>

² Available at: <https://www.aclu.org/documents/eye-in-the-sky-policing-needs-strict-limits>

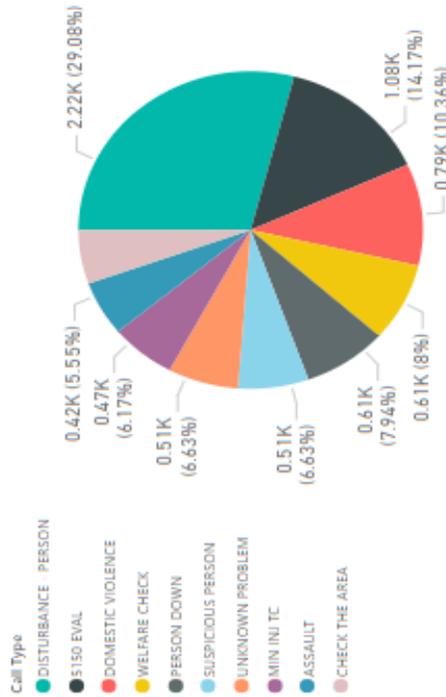


CHULA VISTA POLICE DEPARTMENT - DRONE AS FIRST RESPONDER (DFR)

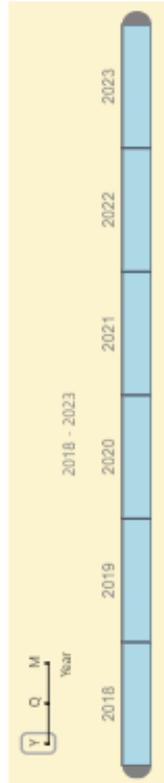
CHULA VISTA POLICE DEPARTMENT DFR PROGRAM FACTS

- * Selected as part of the IPP on October 2018
- * First program in the nation using Drones as a First Responder (DFR). See [FAA site](#)
- * Current status: DFR Pilot Program currently based from CVPD HQ with limited flight range of about 1 mile radius
- * Common use of drones in Chula Vista: Drones as first responders, documenting crime and accident scenes, searching for missing or wanted persons, fires, and evaluating damage after a major incident or natural disasters
- * Program envisioned December 2015

TOP 10 CALLS RESPONDED WITH DFR ASSISTANCE



PLEASE SELECT A TIME FRAME



DFR ACTIVITY BY THE NUMBERS

TOTAL CALLS RESPONDED TO	17142
DFR ASSISTED ARRESTS	2320
DFR DEPLOYMENT AVOIDED DISPATCHING A PATROL UNIT	4003
DFR FIRST ON SCENE COUNT	12.79K
AVG RESPONSE TIMES - FIRST ON SCENE (IN SECONDS) *	96.38
AVG RESPONSE TIMES - ALL CALLS (IN SECONDS) *	114.65

* Response times from dispatch to arrival. **_EARLIEST RESPONSE DATE/TIME 10/23/2018 8:29:57 AM LATEST RESPONSE DATE/TIME 10/9/2023 6:53:15 PM**

Source: <https://www.chulavistaca.gov/departments/police-department/programs/uas-drone-program>

MCPD has adopted a policy, for their existing drone program, that allows for UAS technology to be used to provide an aerial visual perspective in responding to calls for service, emergency situations, and exigent circumstances that include events that could lead to serious injury or loss of life. The following objectives are included in the policy for use: situational awareness; search and rescue; tactical deployment; visual perspective; scene documentation; department development; community engagement; and drone as first responder³.

Many agencies, including MCPD, see drones as a way to help address staffing shortages--creating a force multiplier—as well as to respond to potentially dangerous scenes without endangering human officers. However, concerns have been raised that such drone programs may normalize usage and potentially lead to mass aerial surveillance, warrantless surveillance, and over-policing that disproportionately affects Black, low-income, and other vulnerable communities.

III. **ANALYSIS:** The MCPD UAS program is housed within the Special Operations Division, Operational Support Section. DFR launch sites are planned to operate out of the Silver Spring (3D) and Wheaton (4D) police districts. MCPD selected the Silver Spring and Wheaton locations to pilot the DFR program due to call volume, police staffing, and crime trends analysis. Census demographic details for Silver Spring and Wheaton show both locations are primarily made up of Black, Indigenous, and People of Color (BIPOC), with a larger Hispanic/Latino population in Wheaton.

Category	Silver Spring	Wheaton	Montgomery County
White alone, percent	39.10%	32.40%	58.40%
Black or African American alone, percent(a)	29.30%	17.60%	20.70%
American Indian and Alaska Native alone, percent(a)	0.40%	1.00%	0.90%
Asian alone, percent(a)	7.90%	10.60%	16.20%
Native Hawaiian and Other Pacific Islander alone, percent(a)	0.00%	0.00%	0.10%
Two or More Races, percent	6.80%	6.40%	3.70%
Hispanic or Latino, percent(b)	24.60%	45.00%	20.30%
White alone, not Hispanic or Latino, percent	34.40%	23.70%	41.40%

Source:

<https://www.census.gov/quickfacts/fact/table/silverspringcdpmaryland,wheatoncdpmaryland,montgomerycountymaryland,US/PST045222>

³ Available at:

<https://www.montgomerycountymd.gov/pol/Resources/Files/PDF/Directives/0400/FC%200460%20Unmanned%20Aircraft%20Systems.09192023.pdf>

ORESJ has previously analyzed policing and public safety technology, specifically for Body Worn Cameras (BWC), in the following REIA: [#23-28 Police Accountability and Community Transparency \(PACT\) Grant Award](#). This REIA highlights wide disparities in police-public interactions by race and ethnicity. The REIA cited the Office of Legislative Oversight's (OLO) Report 2020-09: Local Policing Data and Best Practices⁴, which illustrated the existence of a “stark contrast between the demographic makeup of County residents and the demographic makeup of residents involved in MCPD traffic stops, MCPD arrests, and MCPD use of force cases.”

The Racial Equity and Social Justice Impact Statement (RESJIS) conducted by the OLO for Bill 14-22 Police, Private Security Camera Incentive Program – Established,⁵ provides historical context and relevant background on policing, surveillance, and racial inequity. The RESJIS explained how increased community surveillance could place Black and Latinx residents at greater risk for police contact that could widen existing racial disparities in law enforcement interactions. The RESJIS also highlighted the need to use Laura Moy's taxonomy for technology and algorithmic impact statements to evaluate new police technology tools before seeking legislative approval to adopt new policies⁶. Using this framework helps agencies and policymakers evaluate proposed policy technologies through an equity lens and craft policies that respond appropriately⁷.

The American Civil Liberties Union (ACLU) notes that in communities of color where residents have sharp reasons to fear dangerous interactions with law enforcement, the negative feelings evoked by a watchful police presence can be far more powerful⁸. The ACLU also questions the expansion of DFR programs, asking “Will DFR programs become a tool of undeniable usefulness for law enforcement with positive effects for individuals and for communities? Or will they become just another layer of surveillance and another weapon in the war on drugs, in over-policing, in the targeting of Black, low-income, and other vulnerable communities, and otherwise amplify the problems with the deeply broken U.S. criminal legal system”⁹?

As such, the ACLU cautions against using anecdotes or scenarios to support the creation of DFR programs and recommends that communities delay their creation until there is a better sense of how the existing programs play out in communities with active programs¹⁰. Since DFR's is still a relatively new concept, numerous unanticipated consequences could arise. For existing programs, they recommend policies in three areas to reduce mission

⁴ Available at: <https://www.montgomerycountymd.gov/OLO/Resources/Files/2020%20Reports/OLOReport2020-9.pdf>

⁵ Available at: <https://www.montgomerycountymd.gov/OLO/Resources/Files/resjis/2022/Bill14-22.pdf>

⁶ IBID

⁷ Available at: <https://ssrn.com/abstract=3340898>

⁸ Available at: <https://www.aclu.org/documents/eye-in-the-sky-policing-needs-strict-limits>

⁹ IBID

¹⁰ Available at: <https://www.aclu.org/documents/eye-in-the-sky-policing-needs-strict-limits>

creep and ensure programs don't evolve into broader surveillance programs. These areas include:

- 1) **Usage Limits:** Communities should impose limits on the types of circumstances for DFR deployments, prioritizing emergency situations, and secondly to the most serious calls.
- 2) **Transparency:** Agencies should provide information on where and why drones were deployed as well as information on drone capabilities and sensor payload, drone policies, actual drone performance and results, and balancing privacy and transparency for videos of public interest – similar to the framework for BWC data handling.
- 3) **Privacy/Data Handling:** Rules should be set to establish what imagery the drone should record, such as whether en route images should be captured. Also, a data-sharing and retention policy should be established, preventing data from being shared with other parties or being subject to artificial intelligence (AI) analytics. Finally, the role of private companies and contractors and their access to data needs should be set up to honor policies that apply to MCPD to prevent abuse of data.

The nonprofit Drone Responders also recommends principles for the responsible use of drones by public safety agencies, referred to as the Five C's¹¹. These principles include:

- **Community Engagement and Transparency:** *When developing and operating a drone program, it is critical to engage in an ongoing conversation with the community you serve, including participation and transparency.*
- **Civil Liberties and Privacy Protection:** *Above all else, public safety drone programs should be designed to promote and protect privacy and civil liberties. Programs must uphold civil liberties, especially—but not exclusively—the liberties expressed in the First and Fourth Amendments.*
- **Common Operating Procedures:** *Recommend that departments develop and adopt common operating procedures consistent with templates and best practices.*
- **Clear Oversight and Accountability:** *Agencies need to establish robust oversight measures designed to ensure compliance and accountability.*
- **Cybersecurity:** *Organizations acquiring drones should take steps to guard against potential cybersecurity vulnerabilities.*

MCPD has helped community meetings and met with several advisory boards and committees to present their planned DFR program information. This is an important and necessary step to build trust in the program and engage the community in the planning process pre-deployment. As the Racial Equity and Social Justice Advisory Committee (RESJAC) may have an interest in learning about the DFR program, ORESJ recommends

¹¹ Available at: https://www.droneresponders.org/files/ugd/e60acc_b8b5e91b307f42319ebb92212d051672.pdf

speaking with them, as sharing their views on the program through the lens of racial equity could prove beneficial.

The MCPD UAS Policy addresses a number of best practices and policies recommended by the ACLU and Drone Responders. However, the ACLU notes, “good policies, including on usage limits, transparency, and privacy, should not be left up to police departments, but should be given legal force by a city council or other legislative body as part of a vote to approve a DFR program¹².” Should the County move forward with funding the DFR program, ORESJ endorses the ACLU’s recommendation to codify the policy governing the use of UAS technology and the DFR program. Approving the drone and DFR program policy as well as any modifications through a legislative process would establish guardrails around the program that could prevent mission creep and would help protect the privacy and civil liberties of the community while balancing the need to keep officers safe.

cc: Marcus G. Jones, Chief, Montgomery County Police Department
Ken Hartman, Director, Strategic Partnerships, Office of the County Executive
Earl Stoddard, Assistant Chief Administrative Officer, Office of the County Executive

¹² Available at: <https://www.aclu.org/documents/eye-in-the-sky-policing-needs-strict-limits>